

Draft Environmental Assessment



MCWENNEGER SLOUGH ACQUISITION

March 2009



***Montana Fish,
Wildlife & Parks***

McWenninger Slough Acquisition Draft Environmental Assessment MEPA, NEPA, MCA 23-1-110 CHECKLIST

PART I. PROPOSED ACTION DESCRIPTION

1. **Proposed state action:** Montana Fish, Wildlife & Parks (FWP) proposes to acquire 11.94 acres of land, part of McWenninger Slough, along Highway 35 approximately five miles east of Kalispell. The Flathead Land Trust (FLT) owns the parcel and has offered to sell the property to FWP for \$30,000. FWP proposes to acquire the parcel in fee title.
2. **Agency authority for the proposed action:** The 1977 Montana Legislature enacted Statute 87-1-605, which directs FWP to acquire, develop, and operate a system of fishing accesses. FWP has the authority to develop outdoor recreational resources in the state per 23-2-101 MCA: *“for the purpose of conserving the scenic, historic, archaeological, scientific, and recreational resources of the state and providing their use and enjoyment, thereby contributing to the cultural, recreational, and economic life of the people and their health.”*

Furthermore, state Statute 23-1-110 MCA and ARM 12.2.433 guides public involvement and comment for the improvements at state parks and fishing access sites, which this document provides. ARM 21.8.602 requires the Department to consider the wishes of users and the public, the capacity of the site for development, environmental impacts, long-range maintenance, protection of natural features, and impacts on tourism as these elements relate to development or improvement to fishing access sites or state parks. This document will illuminate the facets of the proposed project in relation to this rule. See Appendix 1 for HB 495 qualification.

3. **Name of project:** McWenninger Slough Acquisition
4. **Project sponsor:**
Montana Fish, Wildlife, & Parks
490 North Meridian Road
Kalispell MT 59901
406-752-5501
5. **Anticipated timeline:**
Public Comment Period: March 2009
Decision Notice Published: April 2009
FWP Commission and Land Board Approval: May 2009
6. **Location:**
Flathead County, T28N, R21W, in the SE¼ NE¼ of Section 1. The site is five miles east of Kalispell on Highway 35.

Figure 1: Approximate Location of McWenninger Slough



Figure 2: McWeneger Slough Acquisition Location

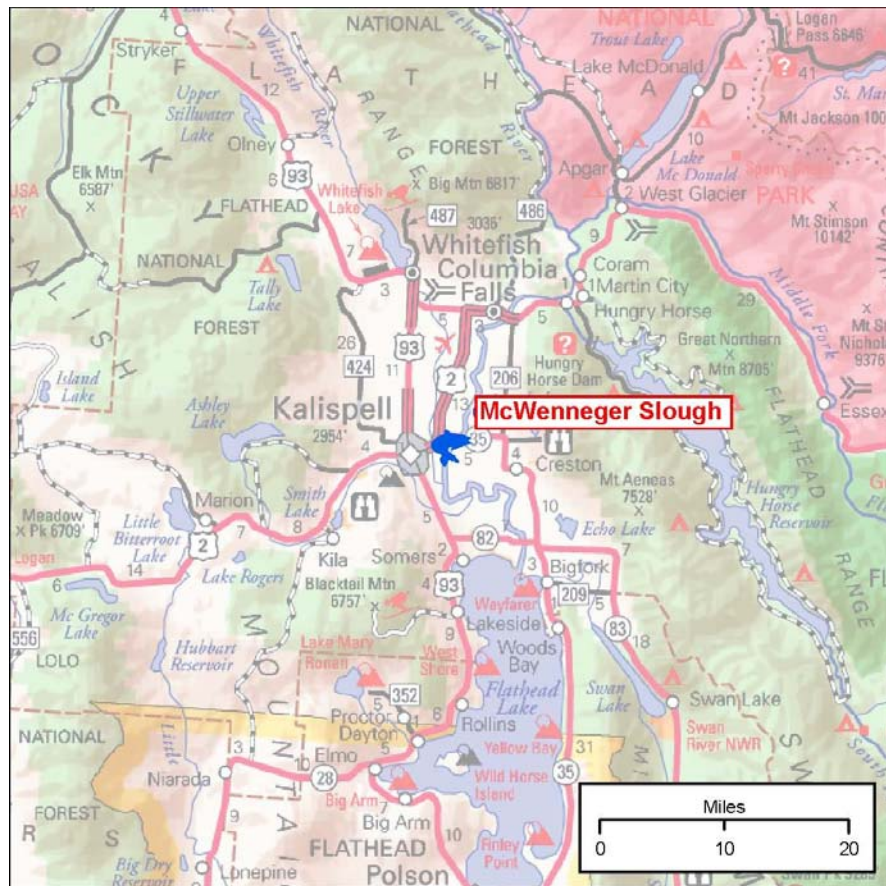


Figure 3: McWeneger Slough Acquisition Location Topographic Map

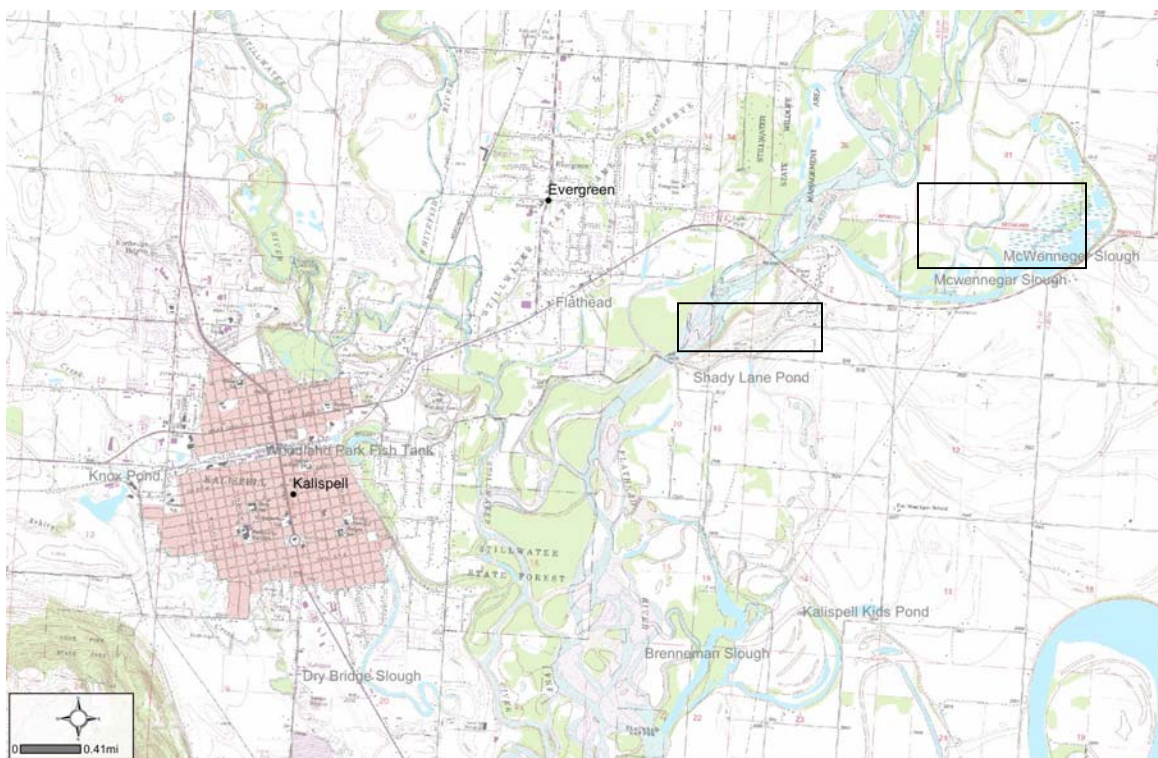


Figure 4: McWeneger Slough Acquisition Aerial View Map



7. Project size:

	<u>Acres</u>		<u>Acres</u>
(a) Developed:		(d) Floodplain/Riparian	<u>11.94</u>
Residential	<u>0</u>		
Industrial	<u>0</u>	(e) Productive:	
(b) Open Space/Woodlands/Recreation	<u>0</u>	Irrigated cropland	<u>0</u>
(c) Riparian Wetlands Areas	<u>5</u>	Dry cropland	<u>0</u>
		Forestry	<u>0</u>
		Rangeland	<u>0</u>
		Other	<u>0</u>

* The 5 acres of riparian wetland area is within the floodplain riparian acreage; total acreage, 11.94.

8. Local, state or federal agencies with overlapping or additional jurisdiction:

- (a) Permits:** None required.
- (b) Funding:** MT FWP FAS Acquisition Account: \$ 30,000 acquisition
- (c) Other overlapping or additional jurisdictional responsibilities:** Section 7-22-2154 (2), MCA requires a weed inspection by the county weed district before acquiring new land, which has been requested of the Flathead County Weed District.

9. Narrative summary of the proposed action:

McWenninger Slough is an isolated oxbow slough off the Flathead River approximately 5 miles east of Kalispell on Highway 35. The slough is 40.5 acres and supports fishing for northern pike, yellow perch, black bullheads, black crappie, and largemouth bass, as well as waterfowl hunting and wildlife viewing. The public previously accessed the slough through a private access that was closed in 2004 due to vandalism. Fishing use was 1,177 days in 2003, 81 days in 2005 after the closure. The Flathead Land Trust (FLT) acquired conservation easements around much of the slough and was donated the 11.94 acre parcel along the highway. FWP has a Private Land Fishing Access (PLFA) agreement with FLT; however, FLT does not want to own land and would prefer to transfer ownership to FWP. FLT has developed the site, including a concrete vault latrine, a parking area, and graveled access to the water for hand launching of carry-on boats, canoes, and kayaks. FLT has offered to sell the property for \$30,000, which is expected to be less than the appraised value.

McWenninger Slough is a popular location for fishing and waterfowl hunting. A local landowner had allowed the public to access the slough and launch boats from his irrigation pump site on McWenninger Slough, but that access has been shut off to public use. Water skiers set up and use a water ski course on the slough with permission through the private access. The hand launch site developed by FLT is for small watercraft only and should not enhance or impede the current water ski activity. FWP recently obtained a Recreational Use permit with Montana Department of Transportation to allow anglers and other recreationists to access the slough from Highway 35. In the event that FWP does not acquire the property, the Recreational Use permit will revert back to MDT.

This property consists of riparian floodplain and wetlands. The parcel is estimated as 50% surface water, 45% emergent vegetation such as cattails, and 5% higher ground with dense brush and cottonwood growth. There is open water in the center of the slough and grasses, sedges, and rushes dominate the margins. The landscape has both forested floodplain and riparian wetland vegetation and is dominated by mature black cottonwoods and immature saplings, as well as some ponderosa pine, Douglas fir, and alder. There are established areas of knapweed in less than an acre of the parcel. If acquired, FWP would begin weed management in adherence with the Statewide Integrated Noxious Weed Management Plan, using an integrated approach including chemical, biological, and mechanical methods. FWP has contacted the Flathead County Weed District requesting a weed inventory as required by MCA 7.22.2154.

The acquisition of this parcel of 11.94 acres of McWenninger Slough would allow FWP to preserve this stretch of wetland habitat and continue permanent public access. The land, if acquired would be open to the general public. If acquired, regulation and informational signs including highway approach signs would be posted.

10. Alternatives:

Alternative A: No Action

If no action were taken, FLT would likely pursue other alternatives for disposing of the property, and FWP would lose the opportunity to provide public access to McWanneger Slough and public access to the slough could become even more limited.

Preferred Alternative B: Proposed Action

In the preferred alternative, FWP would acquire the 11.94-acre tract of land being sold by the FLT. The purpose of the acquisition is to provide continued public access to McWanneger Slough and to preserve this important wetland habitat used by area wildlife, birds, and fish. The FLT has proposed a price of \$30,000, which is expected to be less than the appraisal price.

11. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:

There are no mitigation, stipulations, or other controls associated with the actions. Therefore, no evaluation is necessary.

PART II. ENVIRONMENTAL REVIEW CHECKLIST

Evaluation of the impacts of the Proposed Action including secondary and cumulative impacts on the Physical and Human Environment.

A. PHYSICAL ENVIRONMENT

1. <u>LAND RESOURCES</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. **Soil instability or changes in geologic substructure?		X				
b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil, which would reduce productivity or fertility?		X				
c. **Destruction, covering, or modification of any unique geologic or physical features?		X				
d. Changes in siltation, deposition, or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?		X				
e. Exposure of people or property to earthquakes, landslides, ground failure, or other natural hazard?		X				

The proposed acquisition will have no effect on existing soil patterns or structures.

2. <u>AIR</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. **Emission of air pollutants or deterioration of ambient air quality? (Also see 13c.)		X				
b. Creation of objectionable odors?		X				
c. Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally?		X				
d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants?		X				
e. ***For P-R/D-J projects, will the project result in any discharge, which will conflict with federal or state air quality regs? (Also see 2a.)		NA				

The proposed acquisition will have no effect on ambient air quality. There is a concrete vault latrine on the property, which will be regularly maintained by FWP, if the property is acquired, to mitigate for objectionable odors.

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** Include a narrative description addressing the items identified in 12.8.604-1a (ARM).

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3. <u>WATER</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated*	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. *Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen, or turbidity?		X				
b. Changes in drainage patterns or the rate and amount of surface runoff?		X				
c. Alteration of the course or magnitude of floodwater or other flows?		X				
d. Changes in the amount of surface water- in any water body or creation of a new water body?		X				
e. Exposure of people or property to water related hazards such as flooding?		X				
f. Changes in the quality of groundwater?		X				
g. Changes in the quantity of groundwater?		X				
h. Increase in risk of contamination of surface or groundwater?		X				
i. Effects on any existing water right or reservation?		X				
j. Effects on other water users as a result of any alteration in surface or groundwater quality?		X				
k. Effects on other users as a result of any alteration in surface or groundwater quantity?		X				
l. ****For P-R/D-J, will the project affect a designated floodplain? (Also see 3c.)		NA				
m. ***For P-R/D-J, will the project result in any discharge that will affect federal or state water quality regulations? (Also see 3a.)		NA				

The proposed acquisition will have no effect on surface water, drainage patterns, or floodwater routes.

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4. VEGETATION Will the proposed action result in?	IMPACT *				Can Impact Be Mitigated*	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Changes in the diversity, productivity, or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?		X				
b. Alteration of a plant community?		X				4b.
c. Adverse effects on any unique, rare, threatened, or endangered species?		X				4c.
d. Reduction in acreage or productivity of any agricultural land?		X				
e. Establishment or spread of noxious weeds?		X				4e.
f. ****For P-R/D-J, will the project affect wetlands, or prime and unique farmland?		NA				

- 4b. Water horsetail, hardstem bulrush, cattail, and water lily, as well as other grasses, sedges, and rushes, dominate the margins of the slough. Species of pondweed dominate areas between the open water and margins, with 8 species of pondweed found in the slough. The landscape has both forested floodplain and riparian wetland vegetation and is dominated by mature black cottonwoods and immature saplings, as well as some ponderosa pine, Douglas fir, and alder. Throughout the site, shrubs identified include black hawthorn, various willow species, and red osier dogwood. Because the public already uses the property, the acquisition should not significantly impact the plant community. However, with additional use the site would likely receive as a fishing access site, there would be additional impacts to the plant community, but the impacts would be mitigated through site protection measures including signage, fencing, and parking area development, so impacts to the plant community would be minimized.
- 4c. A search of the Montana Natural Heritage Program's (MNHP) species of concern database found no vascular or nonvascular plants of significance within the boundaries of the property to be acquired. Pygmy water-lily (*Nymphaea tetragona* ssp. *leibergii*) was identified in the Species of Concern report (see Appendix 2) with no federal rankings, but the statewide ranking is S1/G5 at high risk of extirpation in the state; however, globally it is considered common. Also Columbia water-meal (*Wolffia columiana*) and beaked spikerush (*Eleocharis rostellata*) are both a species of concern in Montana, but are not listed as threatened. The statewide ranking for these plants is S2/G5 at risk of extirpation in the state, but globally it is considered common. The beaked spikerush is listed Sensitive by USFS. The proposed acquisition would not impact these species, but possible impact will be considered in case of future development.
- 4e. This property currently has infestations of spotted knapweed, on less than an acre of the parcel. If the acquisition were approved, FWP would initiate the Statewide Integrated Weed Management Plan using chemical, biological, and mechanical methods. Weed management will facilitate the restoration of native vegetation and should prevent the spread of weeds. Vehicles will be restricted to the parking area, which will be maintained as weed-free and vehicles will not be allowed on undisturbed areas of the site, where the weed infestation exists. FWP has requested a weed inventory from the Flathead County Weed District.

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** 5. FISH/WILDLIFE Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Deterioration of critical fish or wildlife habitat?		X				
b. Changes in the diversity or abundance of game animals or bird species?		X				
c. Changes in the diversity or abundance of nongame species?		X				
d. Introduction of new species into an area?		X				
e. Creation of a barrier to the migration or movement of animals?		X				
f. Adverse effects on any unique, rare, threatened, or endangered species?		X				5f.
g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest, or other human activity)?		X				5g.
h. ****For P-R/D-J, will the project be performed in any area in which T&E species are present, and will the project affect any T&E species or their habitat? (Also see 5f.)		NA				
i. ***For P-R/D-J, will the project introduce or export any species not presently or historically occurring in the receiving location? (Also see 5d.)		NA				

The proposed acquisition will have no bearing on the game and nongame species that frequent the property and is not considered critical habitat for any species, according to FWP Wildlife Biologist Dwight Bergeron.

5f. A search of the Natural Resources Information System provided by the Montana Natural Heritage Program showed that no endangered species are in the vicinity of the property. However, the property is potential habitat for bald eagle, gray wolf, great gray owl, westslope cutthroat trout, and bull trout. Neither the FWP wildlife biologist nor the fisheries biologist for the area has any concerns with the proposed acquisition impacting wildlife in the area.

Bull trout and Westslope cutthroat trout are located in the Flathead River, but they are not found in McWenninger Slough. There would be no impact on these species from the proposed acquisition.

The bald eagle was delisted as Threatened by the USFWS August 2007 and now falls under the Bald Eagle Protection Act. Currently designated as Delisted Taxon-Recovered, they continue to be systematically monitored. The bald eagle is still listed as Threatened by USFS, Special Status by BLM, and is in the Tier 1 of the FWP Comprehensive Fish

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and Wildlife Conservation Strategy (CFWCS). Bald eagles are frequently seen around the slough; the closest known nest is close by about a mile west at Lybeck's Dike on the Flathead River according to FWP Wildlife Biologist Dwight Bergeron. Bald eagles from this territory may use the slough for foraging. No bald eagle nests have been sighted on the property.

Gray wolves are listed as Endangered in the Northwest Montana recovery area by USFWS, Endangered by USFS, and Special Status by BLM, in Tier 1 of the FWP Comprehensive Fish and Wildlife Conservation Strategy (CFWCS) and S3/G4 by MNHP. The ranking by MNHP indicates the species is potentially at risk of extirpation in the state and uncommon globally. In 2002, wolves met the recovery criteria set by the USFWS and are therefore biologically recovered. USFWS delisting efforts were initiated in January 2008, and the gray wolf was officially delisted for a few months. However, a legal challenge to the federal delisting decision resulted in the species being relisted by October 2008. In January 2009, USFWS announced its decision to delist in the northern Rocky Mountain states, except Wyoming. That decision is currently under review by the new administration, and wolves remain federally protected in the interim. Renewed legal challenges are expected if the USFWS decision moves forward. FWP Wolf Management Specialist Kent Laudon indicates all of western Montana is habitat for gray wolves. He notes the Flathead Valley isn't the best place for a wolf pack to form as there are a lot of people and that includes domestic dogs and livestock, which would all be potential for conflict. Currently there are no known packs in the valley. The wolf population in northwestern Montana is strong and increasing, and probably some wolves may pass through just about any area, including the Flathead Valley and even McWenneger Slough.

Great gray owl has no listing by USFWS and USFS, Sensitive by BLM, and in Tier 2 of the FWP Comprehensive Fish and Wildlife Conservation Strategy (CFWCS). The great gray owl has not been seen in the area and would most likely use the property during the winter, according to FWP Wildlife Biologist Dwight Bergeron.

Please see Appendix 2, Montana Natural History Program (MNHP) Native Species Report, for more information on these species.

In addition, the Natural Heritage Program tracker identified near the vicinity of the property good habitat for great blue heron, black-capped chickadee, northern flicker, and the red-necked grebe. Sighted near but not in the slough is the northern pocket gopher. FWP staff also identified muskrats, otters, and mink, as well as painted turtles and other wetland reptiles that use the slough. Because the slough is some of the first water to open up in the spring, and it is adjacent to grain fields, it provides a great habitat for ducks and geese, as well as swans, bald eagles, osprey, and other birds. FWP staff identified black bear in the vicinity and two reported sightings of grizzlies during the fall.

Tier 1 of the FWP CFWCS is the greatest conservation need. Montana Fish, Wildlife & Parks has an obligation to use its resources to implement conservation actions that provide direct benefit to these species. Species identified in this section have included the tier level to help identify those in greatest need of conservation. Other species listed

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previously but not specifically identified within Tier 1 include the painted turtle and grizzly bears. Both black bears and grizzly bears are not common within the slough area, but the area does provide important seasonal habitat for them, as well as for mountain lions, elk, and white-tailed deer. Grizzly bears have been reported in the area just north of the slough at least twice; one was mistakenly killed.

Once acquired, FWP would be able to and may inventory the slough area for wildlife species as well as vegetation and identify location of rare plants and other habitats to see if the slough has changed, has exotics, and/or has other sensitive wildlife species not known at this time. A weed inventory has been requested of the Flathead County Weed District and will occur once the snow and ice have melted.

- 5g. The land is currently used by the public for hiking, wildlife viewing, and waterfowl hunting, and the water is used by anglers and water skiers. The acquisition of the property should not negatively impact or stress wildlife populations if usage levels increase with site accessibility restored.

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B. HUMAN ENVIRONMENT

6. <u>NOISE/ELECTRICAL EFFECTS</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Increases in existing noise levels?		X				
b. Exposure of people to severe or nuisance noise levels?		X				
c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?		X				
d. Interference with radio or television reception and operation?		X				

The proposed acquisition will have no change in noise level or electrical levels and will not interfere with radio or television reception or operation. Adjacent landowners will be notified and should not be affected. Visitor use is not expected to increase noise levels as vehicles will be restricted to the parking area and the hand launch site is designed for small watercraft access only.

7. <u>LAND USE</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Alteration of or interference with the productivity or profitability of the existing land use of an area?		X				
b. Conflicted with a designated natural area or area of unusual scientific or educational importance?		X				
c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action?		X				
d. Adverse effects on or relocation of residences?		X				

The proposed action would not alter or interfere with the productivity or profitability of the existing land use. Currently the land is used by anglers and waterfowl hunters and is accessed through the MDT right of way, for which FWP has obtained the Recreational Use permit for access to the slough. FWP would continue to allow such activities. The property has been used some by the general public for hiking and wildlife viewing. FWP would continue to allow these activities. The land is in a floodplain and wetland riparian area that may not be suitable for development, but serves as important habitat for a variety of mammals, bird species, and fish.

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8. <u>RISK/HEALTH HAZARDS</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Risk of an explosion or release of hazardous substances (including, but not limited to oil, pesticides, chemicals, or radiation) in the event of an accident or other forms of disruption?			X		YES	8a.
b. Affect an existing emergency response or emergency evacuation plan, or create a need for a new plan?		X				
c. Creation of any human health hazard or potential hazard?		X				
d. ***For P-R/D-J, will any chemical toxicants be used? (Also see 8a.)		NA				

8a. If acquired, FWP will address the noxious weeds on the property. The Statewide Integrated Weed Management Plan calls for an integrated method of managing weeds. The use of herbicides would be in compliance with application guidelines and conducted by people trained in safe handling techniques. Weeds would also be controlled using mechanical or biological means in certain areas to reduce the risk of chemical spills or water contamination.

9. <u>COMMUNITY IMPACT</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Alteration of the location, distribution, density, or growth rate of the human population of an area?		X				
b. Alteration of the social structure of a community?		X				
c. Alteration of the level or distribution of employment or community or personal income?		X				
d. Changes in industrial or commercial activity?		X				
e. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?		X				

The fee title acquisition is designed to protect the open space and view shed along the slough while providing for additional recreation access. The public uses the property, and that access will likely continue. Adjacent landowners will be notified of the proposed acquisition. No development is planned at this time other than to manage the weeds.

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10. PUBLIC SERVICES/TAXES/UTILITIES	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
Will the proposed action result in:						
a. Will the proposed action have an effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools, parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? If any, specify:		X				
b. Will the proposed action have an effect upon the local or state tax base and revenues?			X Positive			10b.
c. Will the proposed action result in a need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?		X				
d. Will the proposed action result in increased use of any energy source?		X				
e. **Define projected revenue sources		X				
f. **Define projected maintenance costs.						10f.

10b. The current land owners are exempt from property taxes. FWP will pay property taxes in an amount equal to that of a private individual.

10f. Annual maintenance costs are expected to average \$2,650 per year including latrine pumping and cleaning, litter removal, caretaker work, weed control, Parks staff and Enforcement staff time. Maintenance costs are part of the Parks Operations and Maintenance budget.

Initial costs to add FWP signage for the highway approach, and regulation and information signs are estimated to cost approximately \$1,000.

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** 11. AESTHETICS/RECREATION Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?		X				
b. Alteration of the aesthetic character of a community or neighborhood?		X				
c. **Alteration of the quality or quantity of recreational/tourism opportunities and settings? (Attach Tourism Report.)		X				11c.
d. ***For P-R/D-J, will any designated or proposed wild or scenic rivers, trails, or wilderness areas be impacted?		NA				

11c. The public access to the area will continue if the proposed acquisition is approved and will continue to be a destination for hiking, wildlife viewing, fishing and water skiing. Waterfowl hunters will also continue to use the property. See Appendix 3 for the Department of Commerce Tourism Report.

12. CULTURAL/HISTORICAL RESOURCES Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. **Destruction or alteration of any site, structure, or object of prehistoric, historic, or paleontological importance?		X				
b. Physical change that would affect unique cultural values?		X				
c. Effects on existing religious or sacred uses of a site or area?		X				
d. ****For P-R/D-J, will the project affect historic or cultural resources? Attach SHPO letter of clearance. (Also see 12.a.)		NA				

No groundbreaking activities that could disturb cultural resources are going to be initiated as part of the proposed acquisition.

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SIGNIFICANCE CRITERIA

13. <u>SUMMARY EVALUATION OF SIGNIFICANCE</u> Will the proposed action, considered as a whole:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources that create a significant effect when considered together or in total.)		X				
b. Involve potential risks or adverse effects, which are uncertain but extremely hazardous if they were to occur?		X				
c. Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard, or formal plan?		X				
d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?		X				
e. Generate substantial debate or controversy about the nature of the impacts that would be created?		X				
f. ***For P-R/D-J, is the project expected to have organized opposition or generate substantial public controversy? (Also see 13e.)		NA				
g. ****For P-R/D-J, list any federal or state permits required.		NA				

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or cannot be evaluated.

** Include a narrative description addressing the items identified in 12.8.604-1a (ARM).

*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

PART III. NARRATIVE EVALUATION AND COMMENT

The proposed action will have no negative cumulative effects on the physical and human environments. When considered over the long-term, the proposed action poses significant positive effects towards the public's continued access of a scenic recreation area of McWenneger Slough.

The minor impacts that were identified in the previous section are small in scale and will not influence the overall environment of the immediate area. The natural environment will continue to exist to provide habitat to transient and permanent wildlife species and will continue to be open to the public for access to the slough for fishing, waterfowl hunting, hiking, wildlife viewing, and water skiing.

The environmental analysis focuses solely on the acquisition on the property. If FWP were to initiate new development of the property for a fishing access site, a separate environmental assessment would be completed and the public would have the opportunity to comment on proposed improvements.

The proposed acquisition of an 11.94-acre parcel of McWenneger Slough would allow FWP to preserve this stretch of wetland habitat and provide better public access to area anglers in addition to increasing other general public recreational opportunities.

PART IV. PUBLIC PARTICIPATION

1. Public Involvement:

The public will be notified by way of legal ads in the *Kalispell Daily Inter Lake*, the *Hungry Horse News*, and the *Helena Independent Record*, in addition to a statewide press release. A public notice will also be posted on the Fish, Wildlife & Parks web page: <http://fwp.mt.gov/publicnotices>. A direct mailing will be sent to adjacent landowners and interested parties. Additionally, copies will be available for public review at FWP Region 1 Headquarters. This level of public notice and participation is appropriate for a project of this scope having few minor impacts.

If requested within the comment period, the department may arrange a public meeting.

2. Duration of comment period.

A 30-day comment period is proposed as appropriate for the scale of this project. The comment period will extend for 30 days, from March 5 through April 4, 2009. Comments will be accepted until 5 p.m., April 4, 2009. Comments should be sent to Regional Fisheries Manager Jim Vashro:

Mail to: McWenneger Slough Acquisition
Montana Fish, Wildlife & Parks
Region 1 HQ
490 North Meridian Road
Kalispell MT 59901

E-mail to: jvashro@mt.gov

PART V. EA PREPARATION

- 1. Based on the significance criteria evaluated in this EA, is an EIS required? NO**
If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action.

Based upon the above assessment, which has identified a very limited number of minor impacts from the proposed action, an EIS is not required and an environmental assessment is the appropriate level of review.

- 2. Name, title, address and phone number of the person(s) responsible for preparing the EA:**

Jim Vashro
Regional Fisheries Manager
490 North Meridian Road
Kalispell MT 59901
jvashro@mt.gov
406-751-4550

Pam Boggs
FWP EA Coordinator
PO Box 200701
Helena MT 59620-0701
pboggs@mt.gov

- 3. List of agencies consulted during preparation of the EA:**

Flathead County Weed District

Montana Department of Commerce – Tourism

Montana Fish, Wildlife & Parks
Fisheries Division
Lands Division
Legal Bureau
Parks Division
Wildlife Division

Montana Natural Heritage Program – Natural Resources Information System (NRIS)

Appendices

1. HB 495 Project Qualification Checklist
2. Montana Natural Heritage Program (MNHP) Native Species Report
3. Tourism Report – Department of Commerce

APPENDIX 1
HB495
PROJECT QUALIFICATION CHECKLIST

Date January 9, 2009

Person Reviewing Pam Boggs

Project Location: McWeneger Slough T28N, R21W, section1 in Flathead County

Description of Proposed Work: Montana Fish, Wildlife & Parks proposes to acquire 11.94 acres of the McWeneger Slough 5 miles east of Kalispell.

The following checklist is intended to be a guide for determining whether a proposed development or improvement is of enough significance to fall under HB 495 rules. (Please check all that apply and comment as necessary.)

- [] **A. New roadway or trail built over undisturbed land?**
Comments: No roadways or trails.
- [] **B. New building construction (buildings <100 sf and vault latrines exempt)?**
Comments: No new construction.
- [] **C. Any excavation of 20 c.y. or greater?**
Comments: No excavation.
- [] **D. New parking lots built over undisturbed land or expansion of existing lot that increases parking capacity by 25% or more?**
Comments: No new parking lots.
- [] **E. Any new shoreline alteration that exceeds a doublewide boat ramp or handicapped fishing station?**
Comments: No shoreline alteration.
- [] **F. Any new construction into lakes, reservoirs, or streams?**
Comments: No new construction.
- [] **G. Any new construction in an area with National Registry quality cultural artifacts (as determined by State Historical Preservation Office)?**
Comments: No construction.
- [] **H. Any new above ground utility lines?**
Comments: No new utility lines; will not interfere with existing utility lines in the area.
- [] **I. Any increase or decrease in campsites of 25% or more of an existing number of campsites?**
Comments: No camping.
- [] **J. Proposed project significantly changes the existing features or use pattern; including effects of a series of individual projects?**
Comments: No.

If any of the above are checked, HB 495 rules apply to this proposed work and should be documented on the MEPA/HB495 CHECKLIST. Refer to MEPA/HB495 Cross Reference Summary for further assistance.

Appendix 2

Sensitive Plants and Animals in the McWenneger Slough

Species of Concern Terms and Definitions

A search of the Montana Natural Heritage Program (MNHP) element occurrence database (<http://nris.mt.gov>) indicates no known occurrences of federally listed threatened, endangered, or proposed threatened or endangered plant species in the proposed project site. The search did indicate the project area is within habitat for Bald Eagle, Great Gray Owl, Westslope Cutthroat Trout, Bull Trout, Gray Wolf, and the vascular plants Pygmy Water-lily, Beaked Spikerush, and Columbia Water-meal. Please see the next page for more information on these species.

Montana Species of Concern. The term "**Species of Concern**" includes taxa that are at-risk or potentially at-risk due to rarity, restricted distribution, habitat loss, and/or other factors. The term also encompasses species that have a special designation by organizations or land management agencies in Montana, including: Bureau of Land Management Special Status and Watch species; U.S. Forest Service Sensitive and Watch species; U.S. Fish and Wildlife Service Threatened, Endangered and Candidate species.

▼ **Status Ranks (Global and State)**

The international network of Natural Heritage Programs employs a standardized ranking system to denote global (**G** -- range-wide) and state status (**S**) (Nature Serve 2003). Species are assigned numeric ranks ranging from 1 (critically imperiled) to 5 (demonstrably secure), reflecting the relative degree to which they are "at-risk". Rank definitions are given below. A number of factors are considered in assigning ranks -- the number, size and distribution of known "occurrences" or populations, population trends (if known), habitat sensitivity, and threat. Factors in a species' life history that make it especially vulnerable are also considered (e.g., dependence on a specific pollinator).

Status Ranks

Code	Definition
G1 S1	At high risk because of extremely limited and/or rapidly declining numbers, range, and/or habitat, making it highly vulnerable to global extinction or extirpation in the state.
G2 S2	At risk because of very limited and/or declining numbers, range, and/or habitat, making it vulnerable to global extinction or extirpation in the state.
G3 S3	Potentially at risk because of limited and/or declining numbers, range, and/or habitat, even though it may be abundant in some areas.
G4 S4	Uncommon but not rare (although it may be rare in parts of its range), and usually widespread. Apparently not vulnerable in most of its range, but possibly cause for long-term concern.
G5 S5	Common, widespread, and abundant (although it may be rare in parts of its range). Not vulnerable in most of its range.

Sensitive Plants and Animals in the vicinity of McWenneger Slough

1. *Haliaeetus leucocephalus* (Bald Eagle)

Natural Heritage Ranks:

State: **S3**

Global: **G5**

Federal Agency Status:

U.S. Fish and Wildlife Service: **DM**

U.S. Forest Service: **Threatened**

U.S. Bureau of Land Management: **Special Status**

FWP CFWCS Tier: 1

No Element Occurrence of Bald Eagle was reported in the boundaries of this parcel. Last observation date was 2005 with a confirmed nesting area to the west of McWenneger Slough buffered by a minimum distance of 2,000 meters in order to be conservative about encompassing the breeding territory and area commonly used for reneating and otherwise buffered by the locational uncertainty associated with the observation up to a maximum distance of 10,000 meters.

2. *Strix nebulosa* (Great Gray Owl)

Natural Heritage Ranks:

State: **S3**

Global: **G4**

Federal Agency Status:

U.S. Fish and Wildlife Service:

U.S. Forest Service:

U.S. Bureau of Land Management: **Sensitive**

FWP CFWCS Tier: 2

A single element occurrence of the Great Gray Owl in the proximity of McWenneger Slough was reported in 1995.

3. *Oncorhynchus clarkii lewisi* (Westslope Cutthroat Trout)

Natural Heritage Ranks:

State: **S2**

Global: **G4T3**

Federal Agency Status:

U.S. Fish and Wildlife Service:

U.S. Forest Service: **Sensitive**

U.S. Bureau of Land Management: **Sensitive**

FWP CFWCS Tier: 1

No Element Occurrence data reported of Westslope Cutthroat Trout in the proximate area of this parcel.

4. *Salvelinus confluentus* (Bull Trout)

Natural Heritage Ranks:

State: **S2**

Global: **G3**

Federal Agency Status:

U.S. Fish and Wildlife Service: **LT**

U.S. Forest Service: **Threatened**

U.S. Bureau of Land Management: **Special Status**

FWP CFWCS Tier: 1

No Element Occurrence data reported of Bull Trout in the proximate area of this parcel.

5. *Canis lupus* (Gray Wolf)

Natural Heritage Ranks:

State: **S3**

Global: **G4**

Federal Agency Status:

U.S. Fish and Wildlife Service: **LE**

U.S. Forest Service: **Endangered**

U.S. Bureau of Land Management: **Special Status**

FWP CFWCS Tier: 1

The 2006 Interagency Rocky Mountain Wolf Recovery Report notes: Total number of packs = 9
Total number of individuals = 73; Total number of breeding pairs = 31. No Element Occurrence data reported of wolves in the proximate area of this parcel.

6. *Nymphaea tetragona* ssp. *leibergii* (Pygmy Water-lily)

Natural Heritage Ranks:

State: **S1**

Global: **G5**

Federal Agency Status:

U.S. Fish and Wildlife Service:

U.S. Forest Service:

U.S. Bureau of Land Management:

FWP CFWCS Tier:

No Element Occurrence of this plant within the parcel, but is identified in the northeastern part of the slough.

7. *Eleocharis rostellata* (Beaked Spikerush)

Natural Heritage Ranks:

State: **S2**

Global: **G5**

Federal Agency Status:

U.S. Fish and Wildlife Service:

U.S. Forest Service: **Sensitive**

U.S. Bureau of Land Management:

FWP CFWCS Tier:

No Element Occurrence of this plant within the parcel, but is identified in the northeastern part of the slough.

8. *Wolffia columbiana* (Columbia Water-meal)

Natural Heritage Ranks:

State: **S2**

Global: **G5**

Federal Agency Status:

U.S. Fish and Wildlife Service:

U.S. Forest Service:

U.S. Bureau of Land Management:

FWP CFWCS Tier:

No Element Occurrence of this plant within the parcel, but is identified in the northeastern part of the slough.

Information courtesy of Montana Natural Heritage Program.

Appendix 3

TOURISM REPORT

MONTANA ENVIRONMENTAL POLICY ACT (MEPA) & MCA 23-1-110

The Montana Department of Fish, Wildlife and Parks has initiated the review process as mandated by MCA 23-1-110 and the Montana Environmental Policy Act in its consideration of the project described below. As part of the review process, input and comments are being solicited. Please complete the project name and project description portions and submit this form to:

Carol Crockett, Visitor Services Manager
Travel Montana-Department of Commerce
301 S. Park Ave.
Helena, MT 59601

Project Name: MCWENNEGER SLOUGH ACQUISITION

Project Description: Montana Fish, Wildlife & Parks (FWP) proposes to acquire 11.94 acres of land, part of McWenninger Slough, along Highway 35 approximately 5 miles east of Kalispell. The Flathead Land Trust (FLT) owns the parcel and has offered to sell the property to FWP for \$30,000. FWP proposes to acquire the parcel in fee title. The closest fishing access site to this property is the Old Steel Bridge FAS and Shady Lane FAS located on river mile 129 (about a mile east of Kalispell). If acquired, FWP will provide regular maintenance at the site and put up regulation signs to inform the public. The site is used by the public for fishing, hunting, hiking, wildlife viewing.

1. Would this site development project have an impact on the tourism economy?
NO YES If YES, briefly describe:

Yes, as described, the project has the potential to positively impact the tourism and recreation industry economy.

2. Does this impending improvement alter the quality or quantity of recreation/tourism opportunities and settings?
NO YES If YES, briefly describe:

Yes, as described, the project has the potential to improve the quality and quantity of tourism and recreational opportunities.

Signature Carol Crockett, Visitor Services Manager Date 2/9/2009

2/93
7/98sed